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TOWN OF ACTON

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DORE – THIS IS A DRAFT LETTER REGARDING MAPC, ~~MAGIC~~ AND THE MAYOR'S COALITION, FOR YOUR CONSIDERATION.

DRAFT

May 7, 2004

[Click **here** and type recipient's address]

Dear Sir or Madam:

We believe that the State Community Preservation Act is a wonderful example of the legislature and local government working cooperatively to preserve unique local historical assets and open space, as well as to increase affordable housing and recreational opportunities. Rather than create yet another typical government assistance program (in which the bulk of the funds would have probably been distributed to larger cities), with the passage of the CPA, the state legislature took a bold step of demonstrating that the state willing to help those communities who are willing to help themselves.

To that end, a diverse group of citizens came together in Acton to organize a campaign to adopt the CPA. Their efforts were extraordinary, and despite the economic downturn, reductions in state aid and significant increases in local property taxes, Acton voters saw the wisdom in taxing ourselves more, by adopting the CPA. Acton recently received its first annual CPA match and just appropriated the first round of funding for local CPA projects.

Our understanding is that the first attempt to raid the state's CPA matching fund was also initiated by the Metropolitan Mayors Coalition in order to gain access to additional revenue for operating budgets to offset other cuts in revenue. That first raid was defeated and this latest attempt is just a small twist to the first proposal in that the Coalition is now saying that funds received from the "surplus" would be limited for CPA-type projects. While that may sound reasonable to citizens who live in communities struggling to balance operating budgets, the Coalition's proposal is an insult to every community that had the courage and foresight to adopt the CPA, many of which are also struggling to exist within the confines of proposition 2 ½ . Communities represented by the Metropolitan Mayors Coalition rely on the overly regressive property tax for approximately 45% of their annual revenues, while those communities who have adopted the Community Preservation Act derive over 60% of their revenue pie from the property tax. Having 33% more of your revenues under the control of Proposition 2 ½ is a burden that should not be underestimated.

We applaud the efforts of our state representatives and our state senator for their efforts and leadership in defeating the first attempt to raid the CPA fund, and we are confident that should this new proposal make it to the legislative floor for a vote, it too will be defeated. If the legislature is to tinker with MGL Chapter 44B (The Community Preservation Act)in order to accommodate the so called Surplus, we suggest that second and third round distributions be broaden to include all the communities who have accepted the Act, rather than those communities who have adopted the maximum percentage of 3%.

I respectfully suggest that rather than continuing to figure out different ways to raid the CPA fund, that the Metropolitan Mayors Coalition spend its energies and resources on developing an effective citizen outreach program that focuses on educating citizens about the benefits of the CPA and then, further, to assist coalition member cities in launching their own campaigns to adopt the CPA. After all, every city and town in the Commonwealth is eligible for the matching CPA funds - as long as they adopt the CPA and implement the property tax surcharge.

SINCERELY, • [CITY/STATE] • [ZIP/POSTAL CODE]
PHONE: [PHONE NUMBER] • FAX: [FAX NUMBER]

METROPOLITAN MAYORS COALITION

POLICY BRIEF

Maximizing the Trust

A Proposal to Use Part of the Community Preservation Trust Fund Surplus

April 2004

Executive Summary

FINDINGS

- The Community Preservation Act (CPA) of 2000 was created to support municipalities interested in promoting open space, affordable housing, and historic preservation.
- The State agreed to help communities by providing matching funds through a Community Preservation Trust Fund, funded through a small fee on registry filings in all state communities. Currently, municipalities must vote for a surcharge on their property tax to be eligible for state matching funds.
- The Trust Fund has grown faster than projected, earning far more than the predicted $26 million annually because of high registry filings and a dynamic housing market.
- The Community Preservation Trust Fund will have an estimated $110 million fund balance this year, and under current and projected circumstances, there will continue to be a significant surplus well into the future.

RECOMMENDATIONS

- In order to maximize the Fund's utility, a portion of the surplus funds could be used to promote open space, affordable housing, and historic preservation in all Massachusetts communities – either by using $30 million to supplement existing state grant programs or creating another vehicle to distribute the funds for CPA purposes.
- Long term, the Legislature should consider whether communities should have other ways to participate in the CPA besides the current property tax surcharge option.

PRINCIPLES

- The intent of the original CPA must be maintained. The Community Preservation Trust Fund surplus should only be accessed to promote open space, affordable housing, and historic preservation. Any use of the surplus must ensure that communities that have passed CPA are held harmless and continue to receive a 100% match. Municipalities should be required to match any funding received through the CPA surplus with locally-raised funds on a one-to-one ratio. Use of a portion of the Community Preservation Trust Fund should *supplement* regular state funding, not replace the state's budgetary obligation toward these goals.

Background

In order to help municipalities to preserve their character and resources, the Legislature established the Community Preservation Act, M.G.L. Chapter 44B, with the goal of providing a new mechanism for funding community projects that have at least one of three main objectives:

1. Acquisition and preservation of open space,

2. Creation and support of affordable housing, and

3. Acquisition and preservation of historic buildings and landscapes.

The CPA allows communities to create, by a vote of the residents, a local community preservation fund financed through a surcharge of up to 3% of the tax levy on real property. Funds collected and expended from this community fund are then matched through a state trust fund, which is created by a fee imposed on most filings of property deeds. While the municipal funds are raised locally, the Trust Fund fee is imposed on property transfers throughout the Commonwealth, including communities that have not adopted the CPA. The Act allows the state match to be anywhere from 5% to 100% of locally-raised revenues, based on the fund balance in the Community Preservation Trust Fund. However, because of the factors outlined in this policy brief, there has been a surplus of funds in the account and all matches made to date have been at 100%.

The CPA legislation requires that communities distribute at least 10% of the funds to each of the three categories. The remaining 70% may be used in any of the three categories, allowing towns to individually fund their most pressing needs. Funds may also be used for public recreation projects, but there is no requirement that a portion of the money be used to this end. Funds are distributed from the Trust Fund through a mathematical formula based upon municipality's amount of locally-raised revenue and the overall level of the Community Preservation Trust Fund; the State does not decide which projects to fund.

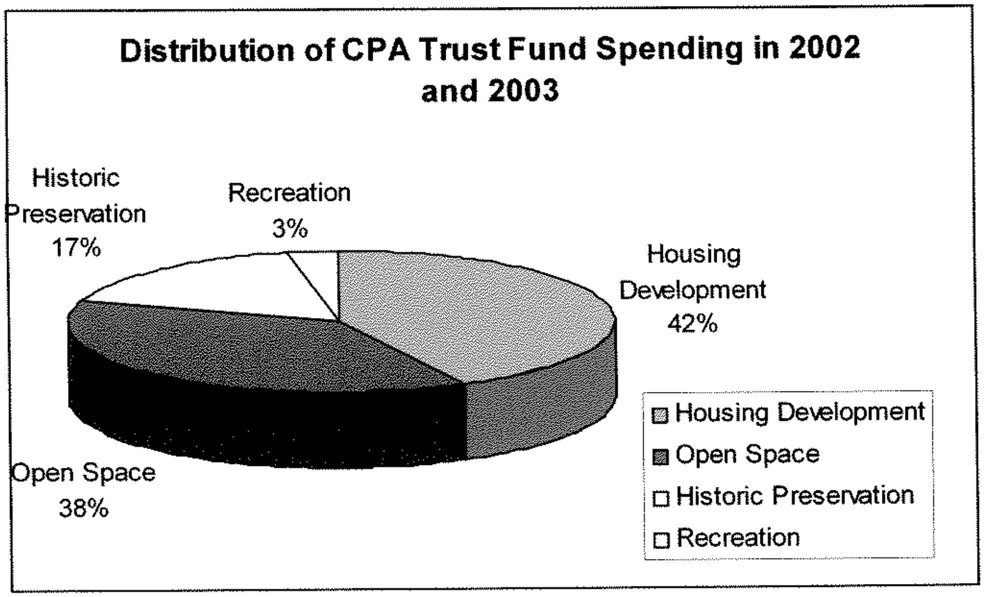


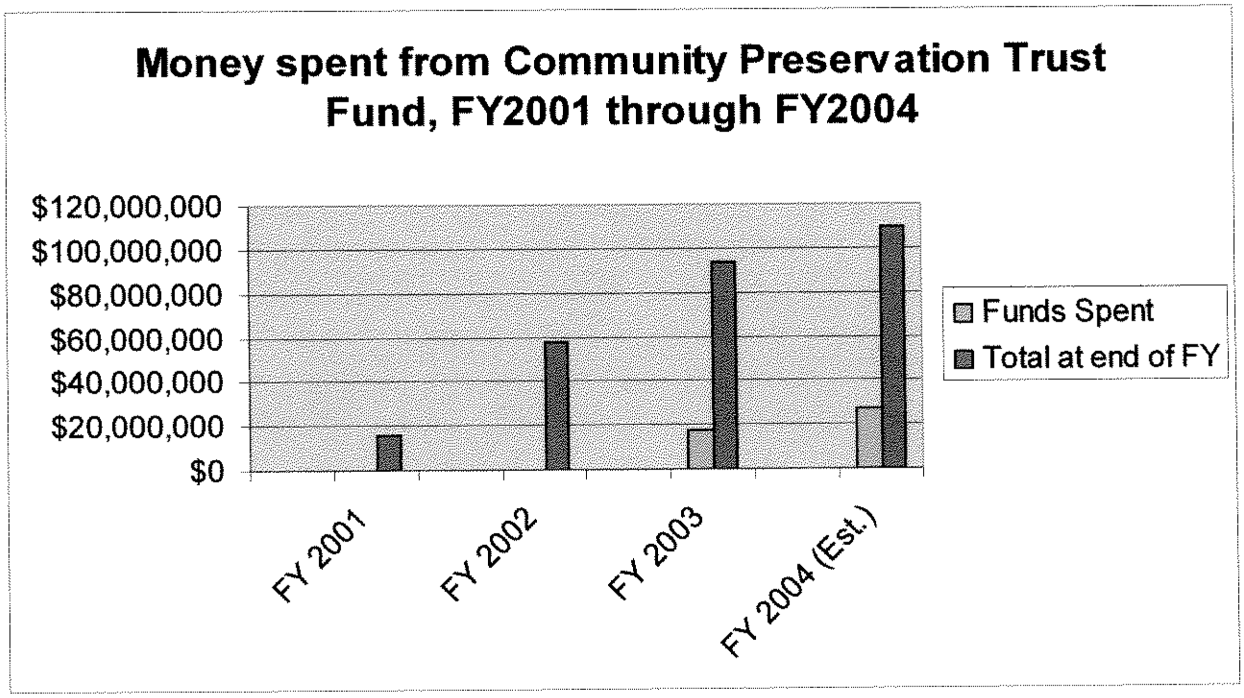
Chart of the Distribution of CPA Trust Fund Spending (FY 2002 and FY 2003) from data from the Trust for Public Land's CPA Website: (http://www.tpl.org/content_documents/cpa_project_status_6_03.xls).

The CPA Trust Fund Surplus

To date, collections into the Trust Fund have run well ahead of projections, largely due to the dynamic housing market and the pace of mortgage refinancing. So far, all CPA Trust Fund matches to participating communities have been made up to the full 100% because of fund availability. Projections indicate that this abundance will continue well into the future, as explained below.

At the end of FY 2003, the Trust Fund balance stood at $94 million. We estimate that at the end of the current fiscal year, 2004, the balance will be approximately $110 million. After running a variety of scenarios, we estimate the end-of-year balance in FY 2005 will stand between $104 and $116 million.

The scenarios were designed to examine three alternative futures which take into account potential alternative conditions for the major factors that impact Trust Fund payouts and fund balance. These are 1) the total number of new communities that join the CPA, 2) the amount of income to the Trust Fund from the Registry of Deeds, and 3) the amount of money raised for the CPA fund by each of the new communities (which is equal to the Trust Fund payout at a 100% match). The number of new communities was modeled at 4, 6 and 8 communities per year. The income to the Trust Fund was modeled at $26, $32 and $38 million dollars per year (based on varying estimates and historical trends). The estimated amount of funds required to match the new communities locally-raised funds at 100% match was modeled at $300,000, $400,000 and $500,000 per community per year (based on CPC estimates and median and average payouts for existing participating communities).



Sources: The data is from the Massachusetts Department of Revenue and the Community Preservation Coalition website. The MAPC estimates for FY 04 fund balance are based on 9 months of income data.

Note: Funds spent in a given fiscal year are for the purpose of matching communities' locally-raised revenues *from the preceding fiscal year.*

Currently, 61 communities have approved the Act at the local level and 54 communities have begun to participate in the program, but even under projections of significant growth in requests for funding from both current and future participants, the existing large accumulated balance would allow for at least several years of continued 100% matching of funds.

Principles for Using a Portion of the Surplus

The Metro Mayors Coalition supports the intention and purposes of the Community Preservation Act. At the same time, the organization feels that it would be appropriate public policy to use a portion of the current surplus to promote open space, affordable housing, and historic preservation in every community in Massachusetts.

We suggest that any redistribution of CPA funds would have to adhere to the following principles:

1) The intent of the original CPA must be maintained. The funds should be used solely for the purposes of open space, historic preservation and affordable housing creation and be shared among these three goals.

2) The CPA Trust Fund surplus should only be used if there are enough funds to allow a continued 100% match to both current and future participating communities under current and reasonably estimated circumstances for at least several more years.

3) Use of the surplus would be for a single year only.

4) Any program receiving funds from the CPA Trust Fund should require a locally-raised municipal funding match on a one to one ratio.

5) The CPA was designed to be operated on a local level, and any other program must provide a similar level of local control and awareness.

6) The use of surplus CPA funds should supplement, not replace, existing state funding. In addition, CPA funds should only be used for projects at the municipal level, not used for state projects.

7) All communities in the state should be eligible to apply for these funds, including communities already receiving CPA matching funds.

Alternative Proposals to Reinvest the Surplus

There are number of ways that the CPA Trust Fund surplus could be used to promote the goals of the Act, including (1) using existing state grant programs to distribute funds to municipalities across the state on a competitive basis or (2) developing an independent structure for one-time grants using the CPA Trust Fund.

Moreover, members of the Metropolitan Mayors Coalition would like the Legislature to consider during its next legislative session whether the current statute should be amended to allow communities to raise local match money in ways other than an increase in the property tax.

Existing State Grant Programs:

The Legislature could use existing state grant programs to distribute part of the CPA Trust Fund surplus. For example, the Legislature could choose to use $30 million from the CPA Trust Fund's surplus for other state grant programs that have the same goals as the CPA. The primary benefit to this approach is that the administrative structures and criteria are already in place, and municipalities are already prepared to apply for these funds.

Recommended Allocation to Grant Programs:

- $12 million, or 40%, for open space protection and preservation through the Massachusetts Self-Help Program and the Urban Self-Help Program,

- $6 million, or 20%, for historic preservation projects through the Massachusetts Historic Landscape Preservation Grant Program and the Massachusetts Preservation Projects Fund, and

- $12 million, or 40%, for affordable housing promotion through the Massachusetts Affordable Housing Trust Fund.

These percentages are bases on the current use of CPA funds (see chart on page 3).

These five state programs all have established histories of providing funds for much the same purposes as the CPA Trust Fund, and each requires some financial participation from individual communities. Communities that receive funding through these programs as a result of the CPA surplus should be required to provide a direct one-to-one match, to be consistent with the CPA.

1) The Self-Help program, established in 1961, has protected lands such as Winter Woods in Natick and established the Northampton Conservation Land. The Urban Self-Help Program, established in 1977, funded the Buttonwood Park Zoo project in New Bedford. These programs were designed to help communities acquire forests, fields, and other natural lands and open space for preservation and passive recreation and to create parklands within urban environments.

2) The Historic Landscape Preservation Grant Program, established in 1997, has funded projects such as the Rogers Fort Hill Park in Lowell and the Maple Street Cemetery in Adams. The Preservation Projects Fund, established in 1994, funded renovations at the Thomas-Webster Estate in Marshfield. These two programs provide grants to communities for the preservation and maintenance of public landscapes and historical or cultural resources that are listed or eligible for listing on the State Register of Historic Places.

3) The Affordable Housing Trust Fund, established in 2000, has funded projects such as the building of new rental units on Osprey Lane in Sandwich and the rehabilitation of units on Wade, John and Fifth Streets in Fall River. This program is focused on the acquisition and creation of affordable housing.

Creating a Special Structure to Use the Surplus

Another strategy for using the CPA Trust Fund surplus could involve creating a special administrative structure made up of municipal representatives and administration officials to accept applications by municipalities for projects meeting CPA standards and proposing to match state funds with municipal resources. This CPA Committee could evaluate the proposed projects based on CPA criteria and then decide which projects would be capable of accessing the CPA Trust Fund surplus.

The CPA Committee would be charged with developing a Request for Proposals from communities interested in accessing the Trust Fund, drafting guidelines for how the funds can be used, reviewing proposals submitted by municipalities, and ultimately distributing $30 million from the fund balance of the CPA Trust Fund. On the positive side, this proposal would mean that municipal officials could have direct influence over how these funds are used. However, there would be a new administrative burden created if a separate entity is charged with making decisions about the use of the CPA Trust Fund.

Long-Term Issues of Access to the CPA Trust Fund

The Metro Mayors Coalition suggests that the underlying issue with the CPA is that the only way to access funds through the law is to pass a property tax surcharge. Communities with low median incomes simply have a more difficult time in passing override votes, and often do not even bother to attempt an override. According to the Massachusetts Department of Revenue, in Metro Mayors Coalition cities since 1990, Chelsea has attempted one override, Melrose has failed five out of six times to pass overrides, and Revere has not passed one override in 14 attempts.

Interestingly, the average of the median family income in communities that have adopted the CPA is $82,692; in contrast, the average median family income in the nine Metro Mayors Coalition communities that have not adopted the CPA is $53,234. Since every person buying real property or taking out a mortgage is required to pay into the Community Preservation Trust Fund, there is an issue of equity related to which communities have a realistic chance to pass the CPA.

The Legislature may want to consider in its next legislative session whether there should be other mechanisms for communities to raise their local match money besides enacting a property tax surcharge.

Conclusion

The Metro Mayors Coalition requests that the Legislature consider how to best maximize the use of the Community Preservation Trust Fund, which will have a $110 million fund balance at the end of FY2004. Rather than allow those resources to sit there unused, the Metro Mayors Coalition recommends that the surplus be used to promote the three clear goals of the Act: open space, affordable housing, and historic preservation.

Quincy Commits to Open Space and Parks

In May 2000, the City of Quincy proposed to establish a special fund known as the Open Space, Park and Recreation, and Tourism Fund. The Legislature adopted the home rule petition, and a special local room occupancy tax is now in effect that is *dedicated* to the purchase of open space, tourism promotion, and the betterment of local parklands. The hotel/motel tax was gradually implemented and in June 2004 will be permanently set at 4% of the room charge.

Mayor William Phelan of Quincy and other mayors use this Quincy example to demonstrate that communities should be able to locally raise funds for CPA purposes using various strategies, not just a property tax surcharge. The City of Quincy is dedicating a revenue stream exclusively for projects such as open space conservation, restoration of beaches, and maintenance of wetlands and ecological areas, yet under the current CPA, the city can never hope to see its efforts matched by the Community Preservation Trust Fund.